IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

CRP.No. 192 of 2005()

AGAINST THE ORDER DATED IN EP.448/2003 IN OS.25/2002 of III ADDL.M.C., TRIVANDRUM

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REVN. PETITIONER: JUDGMENT DEBTOR/DEFENDANT

SABU, S/O.SHANMUGHAM PILLAI,
RESIDING AT S.S. SADANAM, POOVACHAL P.O.,
PEZHUMOODU, VEERANAKAVU, THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMASWAMY PILLAI

RESPONDENTS: DECREE HOLDER/PLAINTIFF

SHEELA, D/O.KAMALAMMA, AGED 37 YEARS,
"USHUS", VADAKODE, SASTHAKONAM ROAD SIDE,
PERUMBASHUTHOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.R.MANOJ

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

C.R.P No. 192 of 2005

Dated this the 31st day of October 2007

ORDER

Harun-Ul-Rashid ,J

This Civil Revision Petition is filed by the judgment debtor in E.P No. 448 of 2003 in O.S. No. 25 of 2002 on the file of the 3rd Additional Munsiff Court, Thiruvananthapuram. The respondent/decree holder filed the E.P for realisation of Rs. 55070/-. This Revision petition was admitted on condition that the revision petitioner/judgment debtor shall deposit Rs.5,000/- before the execution court within one month from the date of passing of the order by this Court. It is submitted by the counsel for the revision petitioner/judgment debtor that the said amount is in deposit before the exeuction court. When the matter was taken up for hearing, the learned counsel for the revision petitioner/ judgment debtor submitted before this Court that he is prepared to pay the entire decree amount in ten instalments and further prayed that he may be permitted to remit the amounts as requested. He also submitted before this Court that the interest now sought to be realised is at the rate 18% which is unbearable and unconscionable. Therefore he prayed that the interest may be reduced to a reasonable rate.

2. This is a case where the parties entered into a compromise whereby the respondent/decree holder had agreed for a lumpsum

payment of Rs. 35,000/- on or before 28-1-2003. Since no deposit is made as agreed, the respondent/decree holder is proceeding to realise the principal amount with 18% interest .

3. In the light of the submission made by the learned counsel for the revision petitioner/judgment debtor I am of the view that the order under challenge, directing issuance of warrant against the revision petitioner/judgment debtor can be recalled . In the interests of justice I direct the revision petitioner /judgment debtor to repay the balance decree amount in six equal instalments, with 12% interest on the principal amount outstanding. The first instalment shall be paid on or before 28-11-2007 and the balance five instalments shall be paid on the succeeding months on or before 28th of every month. If the revision petitioner/ judgment debtor fails to pay the instalments regularly or commits default of two consecutive instalments the respondent/decree holder is at liberty to realise the entire amount by applying for issuance of warrant or by sale of properties belonging to the revision petitioner/judgment debtor as the case may be. There will be no order as to costs.

HARUN-UL-RASHID, JUDGE

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